IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 16629 of 2007(D)

PETITIONER:

M/S.ESSAR TELECOM INFRASTRUCTURE (P)LTD,
41/256, C-19, SECOND FLOOR, MAHER SQUARE,
OPP.NORTH RAILWAY STATION, COCHIN- 682018
REPRESENTED BY EXECUTIVE (SITE ACQUISITIONS 7
ADMINISTRATION) MR.RAHUL DAS.

BY ADV. SRI.SANTHOSH MATHEW

RESPONDENTS:

---

1. THE REVENUE DIVISIONAL OFFICER,
KOZHIKODE.

2. THE VILLAGE OFFICER, NANMINDA,
KOZHIKODE DISTRICT.

3. SRI.P.RAMACHANDRAN,
CONVENOR, ANTI TOWER ACTION COMMITTEE,
"SNEHA", P.O.KULATHOOR, (VIA) ATHOLI,
KOZHIKODE DISTRICT.

4. THE ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, KOZHIKODE.

5. THE DEPUTY CHIEF ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL CIRCLE, KOZHIKODE.

BY SRI. JOSE J. MATHEIKAL – SC FOR KSEB
SRI. CHANDRAMOHAN DAS – SC FOR PCB
GOVERNMENT PLEADER SMT. ANU SIVARAMAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1: TRUE COPY OF BUILDING PERMIT NO.A3-299/06-07 DATED 14.2.07 WITH APPROVED SITE PLAN ISSUED BY THE SECRETARY, NANMINDA GRAMA PANCHAYT.

EXT.P2: TRUE COPY OF THE RECEIPTS DATED 7.2.2007 AND 14.2.2007 ISSUED BY THE SECRETARY, NANMINDA GRAMA PANCHAYATH TO THE PETITIONER.

EXT.P3: TRUE COPY OF THE REPRESENTATION DATED 20.4.2007 SUBMITTED BY THE 3RD RESPONDENT TO THE 1ST RESPONDENT.

EXT.P4: TRUE COPY OF THE NOTICE DATED 20.4.2007 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P5: TRUE COPY OF THE REPRESENTATION DATED 21.4.2007 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P6: TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P7: TRUE COPY OF THE REPORT DATED 23.4.2007 SUBMITTED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT.

EXT.P8: TRUE COPY OF THE SUMMONS ALONG WITH PETITION DATED 5.5.2007 ISSUED BY THE REGISTRAR, KERALA STATE HUMAN RIGHTS COMMISSION.

/TRUE COPY/

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO.16629 OF 2007

DATED THIS THE 13th DAY OF JUNE, 2007

JUDGMENT

The petitioner is aggrieved by Ext.P4 stop memo by which the petitioner has been interdicted from doing the construction of the tower erected by them for cellular mobile operation. The petitioner submits that in view of the decision in **Reliance Infocomm Vs. Chemancherry Grama Panchayat (2006(4) KLT 695**, the Village Officer cannot issue notice like Ext.P4 which legal position is not disputed before me by the respondents. In the above circumstances, Ext.P4 is quashed.

The learned counsel for the Pollution Control Board submits that if the petitioner intends to install a diesel generator, then the petitioner has to obtain consent from the Pollution Control Board. The petitioner undertakes that diesel generator would not be made use of only with consent from the Pollution Control Board. This is recorded and the writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

Acd